

not answering, he may be committed, or the plaintiff may obtain an order to take the bill *pro confesso* at the next term, or that if a defendant shall have further time to answer, and shall not, before the expiration of the time, put in a good and sufficient answer, the bill may be taken *pro confesso*, without any further delay, and a decree passed thereon. From which, it follows, that after a defendant's answer has, upon exceptions, been declared to be insufficient, the plaintiff, because of his deeming the discovery he seeks necessary to his case, may, if he can, by the specified process, have the defendant arrested and committed to close custody until he does answer; or the order, determining the answer to be insufficient, and requiring a better answer by an appointed day, may be considered, as in truth it is, a grant of further time to answer, since the defendant thereby not merely obtains time to deliberate before he makes answer, but has its deficiency, after it has been made, particularly pointed out, and is thereupon allowed further time to supply its defects. And, therefore, after the expiration of the time allowed by such an order, if a good and sufficient answer be not put in, the plaintiff may well have his bill taken *pro confesso* without further delay, and a final decree made thereupon accordingly. (a)

If a plaintiff could not be allowed, in this manner, either to have the defendant attached and compelled to answer, or to have his bill taken *pro confesso*, as if no answer at all had been filed, then those legislative provisions, by which the proceedings against a defendant to obtain an answer, or have the bill taken *pro confesso* have been regulated might be continually evaded or rendered altogether nugatory. It would only be necessary, in any case, for the defendant to file a mere sham answer, with the express view to its being declared insufficient, so as to throw the plaintiff back upon and force him to resort to, and again run out the same line of process up to that at which he had left off. Such a course, it is evident, would be in direct opposition to the spirit, if not to the letter, of those legislative enactments, the clear principles of which may be so aptly applied to all cases situated like the present. Upon the whole, therefore, I am of opinion that this plaintiff may now have his bill taken *pro confesso* for want of an answer, and have a final and absolute decree founded upon that default and tacit confession.

Whereupon, it is *Decreed*, that the said bill of complaint be

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(a) *Denny v. Filmer Nelson* 65; *Ogilvie v. Herne*, 13 Ves. 563; *Landon v. Ready*, 1 Cond. Cha. Rep. 23.